

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
)
V.) NO. 18CR10327
)
JOSE ROSARIO)
)
_____)

**DEFENDANT JOSE ROSARIO'S MOTION TO PREVENT LAW ENFORCEMENT
AGENTS FROM TESTIFYING THAT TELEPHONES OR TELEPHONE NUMBERS
AS BELONGING TO MR. ROSARIO**

Now Comes, Jose Rosario, defendant in the above captioned matter, who hereby moves this Court to preclude the government in limine from testifying that any cell phones or cell phone numbers they suspect were used by Mr. Rosario were in fact “owned”, “used” or otherwise “belonged” to Mr. Rosario. The government must prove beyond a reasonable doubt that Mr. Rosario was the person speaking on the phone for each call they seek to introduce. The mere fact that they may (or may not) establish that Mr. Rosario used a particular phone during a specific call does not establish that the phone number or phone at issue was exclusively used by Mr. Rosario. That is a question of fact for the jury to decide and the government should be precluded from usurping the jury’s role as fact finder.

Wherefore, defendant moves this Court to grant his Motion.

Respectfully submitted
on behalf of Jose Rosario

/s/ James Budreau
James Budreau, Bar #559931
20 Park Plaza, Suite 1005
Boston, MA 02116
617-366-2200

Certificate of Service

I, James Budreau, counsel of record for the defendant Jose Rosario, hereby certify that I served this motion to all counsel of record by filing same electronically by way of the Court's ECF system on this 4th day of November, 2019.

/s/ James Budreau